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|  | Title | Tenancy Policy | | |
| | Reference | Volume 2 | Owner | Steve Adams |
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1. Purpose and scope

- 1.1 This policy ensures that NCHA issue the correct type of tenancies to customers and aims to:
- ensure NCHA customers enjoy security of tenure and the right to live in their home without undue interference from NCHA.
 - work in partnership with local authorities, having regard to their tenancy strategies and the requirements of the Localism Act 2011
 - develop new affordable housing schemes for the future
 - support sustainable communities on our estates
 - make the best use of our housing stock
- 12 The Tenancy Policy must be read in conjunction with other NCHA policies. Where there is a variance between this policy and an individual's tenancy agreement, the tenancy agreement takes precedence.

2. Responsibilities and risk

Home Manager
Lettings Allocations Co-ordinators
Communities Manager
Home Ownership Team
Intensive Housing Management Project Managers

3. Policy details and guidance

- 3.1 NCHA has chosen to use the following tenancy agreements for lettings to new customers:
- Assured shorthold (starter) tenancies which convert after 12 months to fully assured tenancies.
 - Assured shorthold tenancies (Living over the shop (LOTS)).
 - Assured shorthold tenancies for sub-market rent properties
 - Assured shorthold tenancies for Care and Support customers
 - Section 209 tenancies under a homelessness agreement with the local authority.
 - Protected licence to occupy and excluded licence to occupy as defined by the Protection from Eviction Act 1977 section 3A (8).
 - Licence to occupy for Almshouse customers
- 3.2 There are some other types of occupancy agreements held by existing customers of NCHA, such as Secure Tenancies, but these are only used in new lettings when a customer is moving from one NCHA property to another to ensure they are offered equal tenure in their new home.
- n.b. NCHA ceased to use Affordable Rent Fixed Term tenancy agreements in 2018 due to the reduced security of tenure offered by this type of product, the disproportionate amount of time required to administer fixed term tenancies and the additional costs of administration involved.
- 3.3 Right to Review
- 3.3.1 Customers may ask for a review of the length of tenancy or type of tenancy offered in writing to the Lettings Manager, providing the appeal is made within 21 days of the decision. A written decision will be given within 10 working days.

3.4 Assured Shorthold Starter Tenancies

- 3.4.1 These tenancies are used in most affordable social housing lettings unless in one of the exceptions below, and in some NCHA Care and Support independent living schemes for older people (ILOPS).
- 3.4.2 The starter period allows the customer to demonstrate that they can sustain the tenancy according to the terms of the agreement.
- 3.4.3 Customers may terminate their occupation of the property by giving 4 weeks' notice in writing.
- 3.4.4 NCHA will follow due process in ending Assured Shorthold Starter Tenancies if the customers have breached the terms of their tenancy in the starter period. If a decision has been made to end a tenancy the customer will be served with the required 2 months' notice. The customer will have the right to request a review of the decision to serve that notice. On expiry of the notice and if the decision to serve the notice is upheld at review NCHA will seek a court order for possession of the property.
- 3.4.5 Where the starter tenancy has been conducted satisfactorily the tenancy converts to an Assured Tenancy which is the most secure form of tenancy that NCHA offers. An Assured Tenancy can only be ended following due process. If a decision has been made to end a tenancy the customer will be served with a notice seeking possession which will set out the ground(s) for possession relied upon. Such grounds are set out in Schedule 2 to the Housing Act 1988 (as amended). On expiry of the notice NCHA will seek a court order for possession of the property.
- 3.4.6 Where NCHA is relying on mandatory grounds for possession the customer will have the right to review the decision to serve the notice. On expiry of the notice, and if the decision to serve a notice relying on mandatory grounds is upheld at review, NCHA will seek a court order for possession of the property.

3.5 Assured Shorthold Tenancies (ASTs)

- 3.5.1 ASTs are used in most supported accommodation services where the services are delivered by NCHA Care and Support, in Living Over the Shop accommodation and in the sub-market rent properties.
- 3.5.2 Supported accommodation is not usually a home for life. Generally, the customer moves into the accommodation in order to receive a care and support service. If they no longer need the service they are supported to move on, so that a new person needing the service may move in.
- 3.5.3 Living Over The Shop accommodation are flats where customers live over a retail unit. NCHA holds the leasehold for the flats and may be required to end a tenancy if the freeholder gave notice to NCHA.
- 3.5.4 NCHA will follow due process in ending Assured Shorthold Tenancies. If a decision has been made to end a tenancy the customer will be served with the required 2 months' notice. The customer will have the right to request a review of the decision to serve that notice. On expiry of the notice and if the decision to serve the notice is upheld at review NCHA will seek a court order for possession of the property.

- 3.5.5 Alternatively NCHA may decide to serve a notice seeking possession which will set out the ground(s) for possession relied upon. Such grounds are set out in Schedule 2 to the Housing Act 1988 (as amended). On expiry of the notice NCHA will seek a court order for possession of the property.
- 3.5.6 Where NCHA is relying on mandatory grounds for possession the customer will have the right to review the decision to serve the notice. On expiry of the notice, and if the decision to serve a notice relying on mandatory grounds is upheld at review, NCHA will seek a court order for possession of the property.
- 3.5.7 Shared ownership leases are Assured Shorthold Tenancies and can be brought to an end using the usual notice seeking possession route. More detailed information is provided in the Home Ownership Team's policies as they will lead on any recovery action for leaseholders.
- 3.6 Other Types of Occupancy Agreement
- 3.6.1 NCHA offers Section 209 tenancy agreements to customers referred by a local authority (currently used at Derbyshire Homeless Project) under the Housing Act 1996 section 209 agreements. This enables NCHA to house people and families who have presented as homeless for up to 12 months while the local authority assesses their homelessness duty to the household. A Section 209 tenancy agreement can be ended by the customer being served with a Notice to Quit of at least 4 weeks duration and if the customer does not vacate NCHA will seek an order for possession from the court. NCHA will end a Section 209 tenancy if the customer breaches any terms of their tenancy including non-payment of rent, if suitable alternative accommodation is offered or the local authority has decided that they no longer have a homelessness duty to the customer, for example, if they have decided that the customer had made themselves homeless intentionally.
- 3.6.2 In NCHA Care and Support properties a licence to occupy may be used instead of an AST when:
- The property is a care home and care services are provided to the service user in their room.
 - The property is temporary accommodation where the service user does not have exclusive possession of their room, for example in refuge accommodation and Branching Out
- 3.6.3 Where licence conditions have not been met, a 28 day Notice to Quit or shorter notice period may be served.
- 3.6.4 Appointments to Almshouses are considered to be long term and every effort is made to avoid setting aside (ending) a licence. However, it is recognised that there are occasions when this is the responsible action to take. Specific circumstances that may lead to setting aside an appointment are:
- a) The resident is no longer able to live independently due to increased frailty or disability, even with the support of social services care packages or other assistance.
 - b) The resident no longer qualifies as a beneficiary.
 - c) The resident is in arrears with the Maintenance Contribution.
 - d) The resident persistently breaches the regulations under which they were appointed (as set out in the letter of appointment).
 - e) The resident or any person living with them or visiting their home engages in harassment or Anti-social Behaviour.

- 3.6.5 The decision to set aside will be taken by the relevant Service Manager after consultation with the investigating colleague. If the decision is made to continue with setting aside the appointment then the relevant Notice and accompanying letter will be served and when the notice period is complete an application made to the County Court if the resident has not left the property.

3.7 Appeals and complaints

- 3.7.1 Where an applicant has an issue about the way in which their application has been handled this should be discussed with the Lettings Manager to see if we can resolve this.
- 3.7.2 If the applicant is still unhappy with the decision, they may make a complaint in line with NCHAs Complaints Policy.

4. Supporting documentation and key legislation

- 4.1 Forms
None

- 4.2 Guidance
None

- 4.3 Legislation
[Schedule 2 Housing Act 1988](#)
[Localism Act 2011](#)
[Protection from Eviction Act 1977 section 3A \(8\)](#)
[Housing Act 1996 section 209](#)

- 4.4. Related policies
[Tenancy Management Procedure](#)
[NCHA Domestic Abuse Policy](#)

5. **Monitoring and reporting**
N/A

6. **Definitions**
N/A

7. Equality and diversity

- 7.1 This procedure has been written in line with NCHAs Equality, Diversity and Inclusion Policy and Equality Statement.

8. **Appendices**
[C&S Tenancy and Licence Agreements](#)

9. Policy Approval

- 9.1 This procedure has been approved prior to issue by the Director of Homes and Wellbeing or if applicable by NCHAs Board or Customer Committee.